IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FLOYD MCCARGO *
*
v. * Civil No. JFM-04-2101
*
NATIONAL RAILROAD PASSENGER *
CORP., a.k.a. AMTRAK *
*****

MEMORANDUM

Plaintiff has brought this action against his former employer, National Railroad Passenger Corporation ("Amtrak"). He asserts that Amtrak unlawfully terminated his employment without giving him "the specific medical reasons for the termination" as required by the collective bargaining agreement ("CBA") between the American Federation of Railroad Police and Amtrak. Amtrak has filed a motion to dismiss. The motion will be granted.[1]

Plaintiff asserts three claims, all of them under state law: breach of the CBA, torts arising from the alleged breach of the CBA, and a violation of plaintiff's alleged due process rights to a pre- or post-determination hearing under the Maryland Declaration of Rights. State law claims are preempted by the Railway Labor Act when their resolution requires an interpretation of a CBA. The same preemption standard applies in Railway Labor Act cases as applies in cases under §301 of the Labor Management Relations Act. *Hawaiian Airlines, Inc. v. Norris*, 512 U.S. 246, 263, 114 S.Ct. 2239, 2249, 129 L.Ed.2d 203 (1994). In *Lingle v. Norge Div. Of Magic Chef, Inc.*, 486 U.S. 399, 406, 108 S.Ct. 1877, 1881, 100 L.Ed.2d 410 (1988), the Supreme Court

[1]Plaintiff previously instituted an action against Amtrak under the Americans With Disabilities Act. The action was eventually dismissed. Amtrak contends that the claims asserted in this action could have been asserted in the prior action and are therefore barred by *res judicata*. I need not decide that issue because I find plaintiff's claims are preempted.

stated that "if the resolution of a state-law claim depends upon the meaning of a collective bargaining agreement, the application of state law (which might lead to inconsistent results since there could be as many state-law principles as there are States, is pre-empted and federal labor-law principles - necessarily uniform throughout the Nation - must be employed to resolve the dispute."

Plaintiff argues that because his claims involve "'purely factual questions' about an employee's conduct or an employer's conduct and motives," they "do not 'require a court to interpret any term of a collective-bargaining agreement.'" *Hawaiian Airlines*, 512 U.S. at 261, 114 S.Ct. at 2248 (quoting *Lingle*, 486 U.S. at 407, 108 S.Ct. at 1882). However, the Supreme Court used the language quoted by plaintiff in the context of holding that a claim is preempted only if it "is dependent on the interpretation of a CBA," and is not based on a "substantive protection [under state law] . . . independent of the [CBA]." *Id.* at 262, 114 S.Ct. at 2249. Here, plaintiff's claim arises under the CBA and draws into question the meaning and scope of the CBA's requirement that Amtrak "give the specific medical reasons" for an employee's termination. That is a question which cuts across the board of all similar claims and requires uniform interpretation. Thus, plaintiff's claims are preempted.

A separate order granting Amtrak's motion to dismiss is being entered herewith.

Date: August 23, 2004

/s/
J. Frederick Motz
United States District Judge

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 23rd day of August 2004

ORDERED

1. Defendant's motion to dismiss is granted; and

2. This action is dismissed.

/s/
J. Frederick Motz
United States District Judge